UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

ESTATE OF ERIC RIVERA, by and through successors in interest, PHILLIP MALIK and VALERIE RIVERA; PHILLIP MALIK, individually; VALERIE RIVERA, individually,

Plaintiffs,

vs.

Case No. 2:17-CV-06939-CBM

CITY OF LOS ANGELES; LOS ANGELES POLICE DEPARTMENT; ARTURO URRUTIA; DANIEL RAMIREZ, and DOES 1 to 10,

Defendants.

CONFIDENTIAL PORTIONS OF THE

DEPOSITION OF BRANDY ARZATE

Long Beach, California

Monday, December 10, 2018

Reported by: Gina Anne George
CSR No. 11260
LitiCourt Job No.: 201447

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Defendants.	)	

CONFIDENTIAL PORTIONS OF THE

DEPOSITION OF BRANDY ARZATE, taken on behalf of the plaintiffs at 3777 Long Beach Boulevard, Third Floor, Long Beach, California, beginning at 10:15 a.m., and ending at 1:30 p.m. on Monday, December 10, 2018, before Gina Anne George, Certified Shorthand Reporter No. 11260.

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DANIEL RAMIREZ

ARTURO URRUTIA

BRADLEY HEARN

MARC STERNIN

JAMES TALMAGE

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WITNESS

BRANDY ARZATE

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* Exhibit was introduced and marked in the portion of the transcript that was not designated as confidential but is bound with the confidential portion.

The information contained on pages 1 to 85, 94 to 97 and 109 to 113 has not been designated as confidential and those pages are bound separately.

Long Beach, California

Monday, December 10, 2018, 10:15 a.m.

* * *

BRANDY ARZATE,

having been first duly placed under oath by the reporter, was examined and testified as follows:

EXAMINATION

BY MR. CASILLAS:

Q And between the two, did you notice any inconsistencies between their versions?

MR. BRENTE: So that question will have to be under seal, so if you want an answer to that question --

MR. CASILLAS: Under seal.

MR. BRENTE: -- that will have to be, so the reporter will mark this testimony starting here until we instruct the reporter to go off seal, everything from here on until we give her direction otherwise will be under seal.

Agreed?

MR. CASILLAS: Agreed.

THE WITNESS: Can I answer the question?

MR. BRENTE: Yep.

THE WITNESS: Okay. Of course there were inconsistencies. There were conflicts I believe I did notice when I completed my report and I believe they were included in the investigation.

BY MR. CASILLAS:

Q As you sit here today, can you recite any of those conflicts or inconsistencies?

A I do note there were some inconsistencies in regards to the color of the weapon they perceived Mr. Rivera to be holding, as well as the manner in which Mr. Rivera turned around, whether it was clockwise or counterclockwise.

Q Anything else?

A From the top of my head, that's all I can recall at this time.

Q In preparing for today's deposition did you review the footage from the body worn cameras?

A Yes, I did.

Q And in comparing the footage -- I'm sorry. And specifically I'm referring to the body worn camera footage from Mr. Urrutia's camera and Mr. Ramirez's camera. Did you review both of those?

A Yes, sir.

Q And in comparing that footage to their

statements, did you find any inconsistencies or what you refer to as conflicts?

A One from the top of my head would be that Officer Ramirez believed that he placed the vehicle into park, but a review of the body worn video determined that he did not.

Q Anything else?

A Not that I can think of at this moment.

MR. CASILLAS: We'll go to a different subject and go off the confidential transcript.

Let the record reflect an affirmative response from counsel.

MR. BRENTE: Yes, I agree that we're still under seal and when we get to a portion where we agree --

MR. CASILLAS: Oh, no. I'm going off to a different subject and I'm asking that we go off now.

MR. BRENTE: Oh, now?

MR. CASILLAS: Yes.

MR. BRENTE: Okay. Again, we'll take it question by question. So from here on, we are off seal unless and until -- I guess I will be the only one wanting it under seal, so until I raise it, we're off seal.

(Whereupon counsel went off the

confidential portion of the transcript.)

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BY MR. CASILLAS:

Q And the photograph I'm going to show you is identified at least in the list of photographs that were provided to me.

MR. BRENTE: Can you --

BY MR. CASILLAS:

Q There's 319 photographs and we're looking at photograph No. 308.

Do you see that in front of you?

MR. BRENTE: Just to be clear, I don't know how many photographs we produced, whether it was one set or multiple sets, so I'm not going to agree that there was only 319 produced, and I'm sure Detective Arzate doesn't know how many were produced because she's not one of the lawyers in this case.

MR. CASILLAS: We won't hold it against you.

BY MR. CASILLAS:

Q Anyway, looking at the photograph in front of you, do you see that there?

A Yes, sir.

Q What is that a photograph of?

A You refer to it as pie plate. We refer to them as placards, but without being able to seeing the writing on the placard, I cannot say for certain what's on it.

MR. CASILLAS: Clairvoyant. That's what I was going to ask you.

Do you mind if we --

MR. BRENTE: I think just so we make sure the reporter ends up with the right one in the lower right-hand corner it says Rivera hyphen City and then the number 308.

BY MR. CASILLAS:

Q Looking at photograph 308, we're going to scroll down to the photograph and just to make sure we -- still with respect to No. 4, photograph No. 308, what is that a photograph of? Is it a photograph of the scene of the shooting postshooting taken as part of the investigation into the shooting that you were a lead in, yes?

A Yes.

MR. BRENTE: That's compound.

But you can answer it.

THE WITNESS: I'm sorry. Yes, sir.

BY MR. CASILLAS:

Q And the positioning of -- and was there somebody that was identified or designated as the person who would place the pie plate on the ground?

MR. BRENTE: Just so we're clear, her testimony is she doesn't know whose -- to use your

phrase, whose pie plate that is, so I don't know that she would be able to answer that without knowing whose it was.

MR. CASILLAS: That's what I'm trying to get at.

THE WITNESS: If I could see the writing on the placard, that would be very helpful.

MR. CASILLAS: The next photograph I want to show you is photograph No. 309.

MR. BRENTE: Also be under seal because I'm assuming it's a similar one.

Agreed?

MR. CASILLAS: Yes, as well as the testimony related to that.

MR. BRENTE: Correct.

MR. CASILLAS: Subject to my objection, but nonetheless.

BY MR. CASILLAS:

Q What is that a photograph of?

A It is, I guess, a more zoomed in photograph of the same location and what appears to be the same placard, but unfortunately I'm still unable to read the writing on the placard.

Q The miracle of modern technology, we're going to help you out with it.

MR. CASILLAS: Photograph No. 309 is going to be next in order Exhibit No. 5.

(Plaintiffs' Exhibit 5 was marked.)

MR. BRENTE: Also under seal.

MR. CASILLAS: Yes.

BY MR. CASILLAS:

Q By the way, after the shooting, what did you do with the pie plates? After you finished your investigation and left the scene, what did you do with the pie plates?

A We don't keep them. They get discarded.

Q Okay. I'm going to show you what is a blowup of 309. Focusing in on the pie plate, do you recognize that as the pie plate you saw earlier?

MR. BRENTE: This is Exhibit 5?

MR. CASILLAS: Yes.

THE WITNESS: Yes, sir, that appears to be the same placard.

BY MR. CASILLAS:

Q Can you read the writing?

A Yes. It says suspect approximate position at the time of the OIS per Officer Ramirez.

Q And did you write that?

A I did.

Q Was there a pie plate laid out for

Mr. Urrutia's positioning of the suspect?

A I believe there was, but it wasn't with -- actually, no, I take that back. There was not.

Q Why not?

A Because Officer Urrutia was not present at the time of the walkthrough.

Q Did he eventually participate in a walkthrough?

A No, sir.

Q Do you know why not?

A Because his interview was conducted several days later. He was injured, so it wasn't practical to go back to that scene. He at least had not performed a walkthrough with FID investigators.

Q Do you know the significance of his injury?

MR. BRENTE: I'll object as vague and ambiguous significance of.

But you can answer if you understand.

BY MR. CASILLAS:

Q Was he shot? Did he trip? Did he fall?

A It appears that his injury was -- injury was sustained in a fall. There was -- he was not shot.

Q Certainly not life threatening, would you agree?

A That's correct.

MR. CASILLAS: On the photograph I want to show you -- and it seems to be more kind of a panoramic view. The photograph, for the record, No. 311 as marked in discovery and will be identified and marked for our report as No. 6, confidential, and we are still under the confidential portion of the transcript, with my objection being noted.

(Plaintiffs' Exhibit 6 was marked.)

BY MR. CASILLAS:

Q Will you take a look at that? First of all, what's that a photograph of?

A It was a photograph that appears to have been taken from the sheet facing in, I guess, a southeastern direction.

Q Would that be southwest?

A I'm sorry. Southwestern direction. And it depicts the front of 1109 Wilmington Boulevard.

Q And capturing a portion of the scene where the shooting occurred?

A Correct.

Q There are three pie plates there.

A Yes, sir.

Q Positioned by Mr. Ramirez?

A Yes, sir.

Q We talked about the one on the sidewalk as

reflecting the position that Mr. Ramirez placed Mr. Rivera at. Mr. Ramirez, as I understand, was the driver of the patrol car.

A Yes.

Q And there's a pie plate designated there for his position at some point, right?

A Yes, sir.

Q And what is that position?

MR. BRENTE: I'll just object as vague and ambiguous. I don't know how she's supposed to answer that.

But you can answer if you understand.

BY MR. CASILLAS:

Q I guess my question is this. You set it down and I've looked for other photographs that kind of indicate something in writing and had no luck. Blowing it up, likewise, can't get me there.

What do you remember as being written on the pie plate reflecting Mr. Ramirez?

MR. BRENTE: I'm sorry. I apologize. I did not follow the beginning of that question, so maybe you want to ask reask it.

MR. CASILLAS: Sure.

BY MR. CASILLAS:

Q Did Mr. Ramirez position himself during his

walkthrough -- let me rephrase that question.

In the walkthrough did you ask Mr. Ramirez to indicate the position he stood at when he fired?

A We asked him for an approximate position. We're always sure to say approximate.

Q And did he give you such a position?

A He did.

Q And did you mark it on the ground somehow?

A No.

Q Did you put a pie plate down on the position or in the spot that he indicated?

A Yes, sir.

Q And is that reflected in this photograph?

A Yes, sir.

Q Which one is that?

A I believe Mr. Ramirez's would have been the one on the left.

Q Okay. As we look at the photograph Exhibit No. 6, it's the one near the bottom, correct?

A Yes, that's my understanding. And, again, without seeing the writing on it, it's hard to confirm.

Q Fortunately this is the best we got today.

Now, the one at the top of the page -- and to make sure we have a good description of what's

depicted here, it's a view looking from the street towards the sidewalk in a southwest direction, correct?

A Correct.

Q Okay. And on the sidewalk there's a pie plate where we previously indicated was the position of Mr. Rivera at the time of the shooting, correct?

A Approximate position --

MR. BRENTE: I think that's more the driveway than the sidewalk.

THE WITNESS: Approximate position, yes, sir.

BY MR. CASILLAS:

Q And then there are two -- and by the way, did you ever determine what that approximate distance was?

MR. BRENTE: Which distance?

BY MR. CASILLAS:

Q The distance from Mr. Ramirez to Mr. Rivera.

A According to the officers and where they laid down their placards, we do have those approximate positions.

Q Did you measure?

A Oh, yeah.

MR. BRENTE: Are you asking her personally

or someone involved in the investigation?
BY MR. CASILLAS:
Q As part of your investigation did you determine through measurement what that approximate distance was?
A Yes.
Q What was that?
A I would have to refer to my report.
Q I don't need you to do that as long as it's documented there.
A It is.
Q We talked about the position Mr. Ramirez indicated here.
Now, the one that corresponds to Mr. Urrutia, who placed that there?
A Officer Ramirez.
Q And was that consistent with what Mr. Urrutia eventually told you during his walkthrough --
A Yes. I'm sorry.
Q -- or his interview?
A Yes, not walkthrough.
Q Those tricky lawyer questions.
MR. BRENTE: But she caught it.
THE WITNESS: Almost got it.

MR. BRENTE: Because she's a trained detective.

MR. CASILLAS: Almost got me. We've been going for about another hour, and as much as a pleasure that it's been here to sit with you and go through this part of the file, I'm pretty sure I'm almost done. Okay. So if it's okay with everybody, do you mind if we take about ten minutes? I'll make sure that I am done and probably come back on the record and close it up.

Fair?

THE WITNESS: Sounds great.

MR. BRENTE: Thank you.

MR. CASILLAS: We're off the record.

(Recess taken.)

MR. CASILLAS: Back on the record.

And we will go off the confidential portion.

(Whereupon counsel went off the confidential portion of the transcript.)

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STATE OF CALIFORNIA)
) ss:
COUNTY OF ORANGE)

I, GINA ANNE GEORGE, do hereby certify:

That I am a duly qualified Certified Shorthand Reporter, in and for the State of California, holder of certificate number 11260, which is in full force and effect and that I am authorized to administer oaths and affirmations;

That the foregoing deposition testimony of the herein named witness was taken before me at the time and place herein set forth;

That prior to being examined, the witness named in the foregoing deposition, was duly sworn or affirmed by me, to testify the truth, the whole truth, and nothing but the truth;

That the testimony of the witness and all objections made at the time of the examination were recorded stenographically by me, and were thereafter transcribed under my direction and supervision;

That the foregoing pages contain a full, true and accurate record of the portion of the proceedings and testimony which was not designated as confidential to the best of my skill and ability;

That prior to the completion of the foregoing deposition, review of the transcript was requested.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, nor am I financially interested in the outcome of this action.

IN WITNESS WHEREOF, I have subscribed my name this ____ day of _____, ____.

_____

GINA ANNE GEORGE, CSR No. 11260

PENALTY OF PERJURY CERTIFICATE

I hereby declare I am the witness in the above captioned matter; that I have read the foregoing transcript or that it has been read to me, and I know the contents thereof; that the transcript is true to my knowledge, except as to those matters which are herein stated upon my information or belief, and as to those matters, I believe them to be true; that I find the transcript to be a true and accurate transcription of the portion of my testimony which was not designated as confidential, with the following corrections, if any:

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on the ____ day of _____ 20___, at _____, _____.
(City) (State)

_____

BRANDY ARZATE

BY MR. CASILLAS:

Q You made a conclusion about Mr. Rivera's previous history with respect to police officers, correct?

MR. BRENTE: I'm going to object as conclusion as in some opinion versus reporting factual information she uncovered as part of her investigation.

MR. CASILLAS: Noted. And what I'd ask -- Counsel, I don't appreciate the coaching, and all I ask is that you just state your objection. Coaching is tolerant, but this is an important issue, and if you got an objection it's vague and ambiguous, that's good enough.

If you want to take her off the record and go talk to her about her answer, I am more than happy to let you do that, but just let her answer the question after you make an objection.

MR. BRENTE: I appreciate that.

MR. CASILLAS: All right.

MR. BRENTE: I'm not casting aspersions. So we know at the beginning of the deposition I didn't let her answer certain questions about opinions or conclusions.

Now you're trying, in my mind -- maybe I'm

wrong -- to get her to say, yes, I reached some opinions or conclusions and then if you go to the court you'll go, look, here she said she made opinions and conclusions contrary to what Mr. Brente said.

MR. CASILLAS: It's not about you. It's about her.

MR. BRENTE: No, it's about me as her lawyer. You're trying to create a record that's contradictory to what she said, so conclusions to me are opinions versus reporting facts that she collects from various sources.

But go ahead.

BY MR. CASILLAS:

Q All right. You wrote, for example, that he had a history of aggression towards law enforcement personnel, right?

A Correct.

Q Did you review those reports?

A I did.

Q Okay. What was it about those that suggested aggression to the police officers?

A Well, to give you an example, the body worn video where I actually could see his movements and I could hear his words where he charged towards the

officers, cursed at the officers, jumped on the fence and he was simulating as if he was holding a handgun in his hand, to me, that's clearly aggression.

MR. BRENTE: Okay. Just so we're clear, you're talking about another incident unrelated to this officer-involved shooting, true?

THE WITNESS: That's correct.

BY MR. CASILLAS:

Q And with respect to the video in this case, the shooting, were you able to identify any of his movements in the video in this case?

A In this video we attempted a video analysis, but we weren't able to do so. It was too dark and there were objects in the way.

Q And the video that you're referring to from the previous incident, where is that video?

A That video, we have it. We have a copy of that video. It's a body worn video from an LAPD officer.

Q Any reason you haven't produced it?

MR. BRENTE: I believe we did.

MS. LEE: We did produce it.

MR. CASILLAS: Are you sure?

MS. LEE: Yes. In fact, I think we sent you a video link last week on it.

MR. CASILLAS: Okay.

THE WITNESS: Under the investigator's note section there is a description of that.

BY MR. CASILLAS:

Q Anyway, with respect to -- I guess my question is, for purposes of the shooting that you were investigating, how was that relevant?

MR. BRENTE: Are you talking about this shooting?

BY MR. CASILLAS:

Q Yes.

A It's relevant because I believe it shows a pattern of behavior and that's something that you do take into consideration during -- how you mentioned homicide investigations earlier, there is a method of operation, and to me, it was similar and to me, it was relevant.

And the only cases that I depicted in the report were ones where there was aggression towards officers. I didn't include any incidents that were not similar in nature.

Q Did you look into the police officer's background?

A Which police officer?

Q Mr. Urrutia and Mr. Ramirez.

A Personally, no, but that is one of the steps that they take during the adjudication process.

Q Did you learn one way or the other whether they were involved in previous uses of force?

MR. BRENTE: So to make sure the witness is clear, anything you learned from any of your lawyers, and that's myself or Ms. Lee or anyone in our presence you are to exclude from your answer because that's attorney-client.

THE WITNESS: We do have access to their team's record, but it's information that we're not able to discuss and include as part of the investigation, myself as the investigator.

BY MR. CASILLAS:

Q So you could talk about the suspect's previous incidents and contacts with police, but you can't talk about the shooter's previous incidents of excessive -- of force, correct?

A Myself, correct. But, again, that is an overall thing they do discuss when they're adjudicating the case. It is something that is considered in the investigation. It's just not my -- it's not my job. It's not my position to do so.

Q So you can't make a conclusion one way or the other whether the particular officer has a

penchant or a history of force, right?
A Myself, that's correct.
Q In light of all the things that we've talked about today, is your report, Exhibit No. 1, trustworthy?
A I believe it is.
Q And why do you say that?
A Because I complete thorough investigations and I know you quoted -- you said 600 and something pages that went into this. I reviewed each and every one of those pages and the report is as accurate as I could be to the best of my ability.
Q Did you look at the gun, by the way, the toy gun?
A Yes.
Q Did it look like a toy gun to you?
A Up close and personal it did.
Q Were there any studies done in the evening with respect to the gun itself to see how visible or not it was?
A Any studies?
Q Yes. And it could be something forensic in terms of having an expert evaluate it and do special forensic photography, lighting experiments or just as kind of straightforward as standing the distance you

were away and saying, yeah, hold the gun there, God, jeez, that looks like a toy gun. You get what I'm saying.

A I do.

Q Was there any study formal or informal to determine whether the officers stated -- the officer's statement that it looked like a gun to them was actually trustworthy?

MR. BRENTE: So I'm going to object to the use the term study. She said she doesn't reach any opinions about whether their beliefs were reasonable or unreasonable.

BY MR. CASILLAS:

Q You can answer.

A We did a reenactment.

Q Was the toy gun out there?

A Not the toy gun, but one that, I guess, mirrors the toy gun.

Q And when did you do that?

A It was in February. I believe it was -- it was the end of February.

Q Of this year?

A Yes.

Q Who was there in that reenactment?

A There was myself, my supervisor, Detective

Peter Stone, our commander, Commander Robert Lopez, a photographer, last name Sallaberry was present, officers from our ISU unit, which I believe is the investigative support section or unit, I believe is what they're called. They were actually out there and it's Officer Salbazian, and I may not get the spelling right, but I believe it's S-a-l-b-a-z-i-a-n, and our actor, the one posing is Detective Paul Inabu, I-n-a-b-u.

Q And I understand that the report was at least approved on January 31st of this year, so this was after you submitted your report?

A Correct.

Q Why was that reenactment done, if you know, after the report was submitted?

A After the use-of-force review board, they had some additional questions and I believe it was actually -- it was way above my pay grade. I believe it was the chief of police who wanted us to go out there and do a reenactment and take photographs, so we complied with that and made sure it was completed before the police commission.

Q Did it happen at night?

A It did.

Q Was Officer Urrutia there?

A No.
Q Officer Ramirez?
A No, sir.
Q Were any of the other officers that were present after the shooting there?
A No, sir.
Q The photographs that were taken, how many were taken?
A I'm not sure how many were taken.
Q Your best estimate.
A Somewhere around 20 maybe.
Q And were they taken from the vantage point of Mr. Urrutia?
A Some were.
Q Were any taken from the vantage point of Mr. Ramirez?
A Yes.
Q Was there a patrol car there?
A Yes.
Q Did you have the headlights illuminating the person that acted the role of Mr. Rivera?
A We had the headlights positioned in the manner the car -- Officer Urrutia and Ramirez's car was in at the time they exited their police vehicle.
Q Did you actually use their car?

A No.
Q Were any spotlights on?
A No.
Q Were you able to -- were the streetlights on?
A Yes.
Q How about the lights from the apartment building?
A The ones inside the garage were on, and unfortunately, there was an additional light depicted on the front of the building that was not present on the night of the officer-involved shooting, but we had no control over that.
Q And were any photographs taken from the vantage point of Mr. Rivera towards the police officers?
A I can't remember.
Q Was any portion of that reenactment recorded on video?
A No, sir.
Q Other than the photography of it, were there any other means that that -- the work that you did out there recorded or memorialized in any way?
A No, sir.
Q Did you take notes?

A No, sir.
Q Do you know if anybody took notes?
A I don't think anybody took notes that night.
Q And as the --
A Give me just a second, sir. Let me correct myself. You mentioned memorialized. I was thinking notes in my head. We did complete what's called a 15-2, which describes the events that -- or things that we did to prepare for the reenactment in regards of purchasing the gun and some of the altering that we had to do to make the weapon mirror Mr. Ramirez's.
Q What did you have to do, if you recall?
A Well, we were unable to find and purchase the exact gun that Mr. Rivera had, but we were able to find the same brand and the same model. I don't remember the model number, but the only thing that was different was the color.
Q You had an orange one instead of a green one?
A We did have an orange one that we ordered off of Amazon and that didn't work, but I was able to locate a gun and it was florescent green where it should have been black and it clear where it should have been green, so we were able to use a sharpie to color in all the florescent green portion and we used

another marker to tint clear glass in a green color. It looked nearly, if not, identical.

Q So to the extent that you had an actor portray Mr. Rivera's movements -- and you did have somebody do that, I think.

MR. BRENTE: I'm going to object that assumes facts not in evidence that somebody portrayed his movements.

But you can answer.

BY MR. CASILLAS:

Q You had an actor stand in place of Mr. Rivera.

A Yes.

Q And did that actor portray any of Mr. Rivera's movement?

A Not movements because there would be no way for us to know how he actually moved, but to the best of our ability in reviewing the transcripts, we had him in poses which we believe was accurate to the officers' description.

Q And I'm assuming that person was the same height and build.

A Yeah, we went for somebody who was the same height. He may have been a little heavier, but the same height.

Q As a result of the photographs that -- so in February did you happen to take them at the same time that the shooting occurred?

A Yeah, we went there late. I believe it was after 9:00 o'clock.

Q Did you write a report or did anybody write a report?

A We did write that 15-2 supplemental report that I mentioned. It's just discussing what we did to prepare for it and what we did while we were out there.

Q And you attached copy of photographs.

A We have copies of the photographs which have their own designated number assigned to them.

Q In other words, I think you said the chief of police or somebody in that pay grade requested that that be done.

A Yes, sir.

Q As I understand it, it was a request that -- and what was the request rather than me trying to guess at it? What was essentially the request that caused you to go out and do this reenactment?

A They wanted to see what the officers would have seen at that time of the night with the same type of weapon with somebody of the same approximate,

you know, height as the individual involved.
Q And so you went out there and took the photographs essentially.
A We did.
Q And you submitted them up the chain of command.
A Yes.
Q And did you ever get any feedback about that?
MR. BRENTE: I'll object as vague and ambiguous feedback.
BY MR. CASILLAS:
Q Did they say thank you, at least acknowledge it somehow or say it wasn't useful, it does help us, it doesn't help us, anything like that?
A Well, I provided the paperwork and photographs to my commander and my commander, of course, met with people above his pay grade and they had the discussions.
I didn't have the discussion with the chief of police regarding the photographs.
Q And that was Robert Lopez?
A Yes, sir.
Q This reenactment in February, was it before you made the presentation to the shooting review

board?

A No, sir. It was requested after the use-of-force review board.

Q Did you ever make any other presentation or write any other report after you appeared at the shooting review board in this case?

MR. BRENTE: I'll just object as compound.

But you can answer.

THE WITNESS: The next presentation would have been for the police commission and the photographs were available and I believe the inspectors general's office noted those in their report.

BY MR. CASILLAS:

Q And with respect to the presentation in front of the police commission, was that in the confidential section, in other words, the portion of the meeting that is held off the record in private?

MR. BRENTE: I'm going to object as vague and ambiguous.

You can answer if you understand.

THE WITNESS: I don't understand, sir.

BY MR. CASILLAS:

Q You made a presentation to the police commission.

A Yes, sir.
Q Did you make it in open public, in an open public form?
A No, those are always closed-session.
Q That was my question. And did you use the same PowerPoint presentation that you used initially to the board?
MR. BRENTE: Use-of-force review board?
BY MR. CASILLAS:
Q Yes.
A I believe so.
Q Did you add any of the photographs from the reenactment?
A No, sir.
Q Did you make a presentation to the inspector general?
A No, sir. The inspector general attends the use-of-force review board, so we're in constant contact with them throughout the process.
Q Thank you. So we talked about the trustworthy nature of that.
MR. BRENTE: Trustworthy nature of Exhibit 1?
MR. CASILLAS: Yes.
BY MR. CASILLAS:

Q Have you learned one way or the other if Mr. Ramirez has been disciplined as a result of the incident which led to the death of Mr. Rivera?

MR. BRENTE: So I'm going to object. I don't believe we produced any of that in discovery. I'm not even sure if any of it was requested, but it would call for confidential peace officer personnel record information and violate Officer Ramirez's right to privacy.

And I don't know if the detective knows the answer. If you want, I can find out from her off the record, but if she knows and she didn't learn it in the context of attorney-client communication, I'm still not going to let her answer because I don't believe we produced any of that in discovery and I'm not sure if it was requested, but...

BY MR. CASILLAS:

Q You can answer.

A I don't know.

Q The same for Mr. Urrutia?

A I have no idea.

MR. CASILLAS: Mr. Arzate, thank you very much for showing up today and putting up with my awkward questions.

What I'm going to do is propose a

stipulation for Mr. Brente to consider and that's that we relieve the court reporter of her duties with respect to the transcript and that she be so relieved upon her mailing the final original transcript to Mr. Brente's office; that we agree to have the witness review the transcript, make any changes to it and sign it under penalty of perjury; that Mr. Brente agrees to notify me in writing within 10 days of her having done that, as to it being signed under penalty of perjury and any changes to the transcript that the witness might make; that we agree to allow Mr. Brente to serve as the custodian of the original transcript, so long as he agrees to provide the transcript upon reasonable notice for any proceeding relating to this case; and that in the event the original transcript -- the original signed transcript is unavailable for any reason, that we allow a certified copy of the transcript to serve for any purpose that the original signed transcript would be allowed to serve for.

MR. BRENTE: So stipulated.

MS. REPORTER: Did you want a certified copy, Mr. Brente?

MR. BRENTE: Yes, a copy and condensed four and one, but make sure, please, it's newspaper style,

so it's one, two, three, four.

(Deposition concluded at 1:30 p.m.)

STATE OF CALIFORNIA)
) ss:
COUNTY OF ORANGE)

I, GINA ANNE GEORGE, do hereby certify:

That I am a duly qualified Certified Shorthand Reporter, in and for the State of California, holder of certificate number 11260, which is in full force and effect and that I am authorized to administer oaths and affirmations;

That the foregoing deposition testimony of the herein named witness was taken before me at the time and place herein set forth;

That prior to being examined, the witness named in the foregoing deposition, was duly sworn or affirmed by me, to testify the truth, the whole truth, and nothing but the truth;

That the testimony of the witness and all objections made at the time of the examination were recorded stenographically by me, and were thereafter transcribed under my direction and supervision;

That the foregoing pages contain a full, true and accurate record of the portion of the proceedings and testimony which was designated as "Confidential" to the best of my skill and ability;

That prior to the completion of the foregoing deposition, review of the transcript was requested.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, nor am I financially interested in the outcome of this action.

IN WITNESS WHEREOF, I have subscribed my name this ____ day of _____, ____.

_____

GINA ANNE GEORGE, CSR No. 11260

PENALTY OF PERJURY CERTIFICATE

I hereby declare I am the witness in the above captioned matter; that I have read the foregoing transcript or that it has been read to me, and I know the contents thereof; that the transcript is true to my knowledge, except as to those matters which are herein stated upon my information or belief, and as to those matters, I believe them to be true; that I find the transcript to be a true and accurate transcription of the portion of my testimony which was designated "Confidential", with the following corrections, if any:

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on the ____ day of _____ 20___, at _____, _____.
(City) (State)

_____

BRANDY ARZATE

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